

DMH POLICY

Management of Protected Health Information	Policy #: 03-2
	Date Issued: April 8, 2003
	Effective Date: April 14, 2003
Approval by Commissioner	
Signed by: Ken Duckworth, MD	Date: April 8, 2003

I. PURPOSE

The purpose of this policy is to ensure that the Department of Mental Health (DMH), a Covered Entity under the federal Health Insurance Portability and Accountability Act (Public Law 104-191), known as HIPAA, is in compliance with that Act and with the Commonwealth of Massachusetts' requirements concerning the privacy, collection and disclosure of Protected Health Information. In the event that there is a conflict between the requirements of this policy, or the Privacy Handbook which this policy authorizes DMH to issue, and any portion of a DMH Policy that is in effect on April 14, 2003, the inconsistent portion of the preexisting policy shall be deemed superseded by this policy or by the Privacy Handbook. The remainder of the preexisting policy shall continue in effect.

II. SCOPE

This policy is applicable to all DMH offices, DMH-operated facilities and programs.

III. DEFINITIONS

Administrator-in-Charge: The DMH Workforce Member with administrative responsibility for a DMH Central Office division (e.g., Assistant Commissioner for Administration and Finance), Area, Site, DMH-operated facility or program.

Covered Entity: A health plan that provides or pays the cost of medical care, a health care clearinghouse, or a health care provider. DMH, as a health care provider, is a Covered Entity.

DMH Workforce Member: An employee, volunteer, trainee or other person whose conduct, in the performance of work for DMH, is under the direct control of DMH, regardless of whether the person is paid by the DMH office, DMH-operated facility or program.

Health Insurance Portability and Accountability Act (HIPAA): Federal law (Public Law 104-191) that, in part, protects both an individual's right to keep and/or transfer his/her health insurance when moving from one job to another, and the privacy of the individual's Protected Health Information. Federal regulations (45 CFR Parts 160 and 164) implement the privacy portion of HIPAA.

Notice of Privacy Practices: A document approved by the DMH Commissioner, or designee, that provides information to individuals who request or receive services from DMH on DMH's privacy practices relating to its use and disclosure of Protected Health Information.

Protected Health Information (PHI): Individually identifiable information relating to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present or future payment for health care provided to an individual.

IV. POLICY

A. DMH Administrative Responsibilities

With respect to carrying out the regulatory requirements of HIPAA, DMH shall:

- Appoint a Privacy Officer with overall responsibility for the development and implementation of DMH policies and procedures relating to the use, disclosure, maintenance and safeguarding of PHI, including a process for receiving complaints from individuals who believe their privacy rights have been violated.
- Develop a Notice of Privacy Practices and distribute, as required.
- Develop and implement policies, procedures and forms consistent with HIPAA privacy regulations and state law for the use, disclosure, maintenance and safeguarding of PHI in the possession of DMH. DMH shall publish these policies, procedures and forms in a Privacy Handbook. Copies of the current Privacy Handbook shall be distributed as appropriate, posted on the DMH web sites, and be available for public inspection at DMH offices, facilities and programs.
- Modify the Notice of Privacy Practices and the Privacy Handbook whenever there is a need to change DMH's privacy practices and ensure distribution, posting and notification of such changes.

B. Resolving Conflicts with Existing Policy, Procedures and Forms

This Policy and the Privacy Handbook, and any revisions, supersede any existing policies, procedures or forms that are related to privacy of PHI and are inconsistent with them.

V. POLICY IMPLEMENTATION

It is the responsibility of the DMH Privacy Officer, with the assistance of the DMH Senior Management Team, and the Administrator-in-Charge of each DMH-operated facility, program and office to ensure that this policy is implemented.

It is the responsibility of the DMH Privacy Officer to ensure that the Privacy Handbook and Notice of Privacy Practices are updated, as necessary, to reflect changes in laws, regulations, policies or procedures, and that training is carried out, as required.

VI. REVIEW OF THIS POLICY

This policy and its implementation shall be reviewed at least every three years, but immediately upon any change to federal or state law or regulation.